Resolutions on matters of General Public Interest.

23. Capital Punishment (*contd*).

Deputy President.—Mr. Ezhuthassan may reply on his resolution No. 23 for the abolition of capital punishment.

Mr. P. Kumaran Ezhuthassan.—Sir, I don't think any lengthy reply on my part is called for. The Hon'ble Non-Officials except one have not found any necessity for speaking on this. I take it that it is due to the unanimous opinion on their part that this barbarous provision in our Penal Code should be done away with at the earliest possible date. There are one or two points advanced by the Government in their reply yesterday. Today in answer to a question the Government has stated that the Government do not find the wisdom of doing away with this death sentence. I believe that statement is based on the arguments that were advanced from the other side by the Hon'ble Member for Law. His objections for accepting this resolution were three or four in number. First he referred to the divergence of opinion on this topic. As for that I can only say that on any subject, important or unimportant, you come across difference of opinion. It is for enlightened Cochin to accept the reasonable view that is adopted by many a civilised country and do away with this barbarous system. If you seek to retain this clause in the Penal Code it will certainly be an insult to the intelligence of the State. Another objection was that before proceeding to change the law there must be a preponderance of weighty authority. As for that I can only say that the examples of the various countries that have done away with this capital punishment and have not been the worse for it, must strengthen the hands of the Government. Then the views of this House will also be another factor in strengthening the hands of the Government, especially for a Government that is prepared to give due weight to the non-official majority vote of this House. It was stated that when this question was discussed in 1929 the division list showed an equal number for and against amongst the non-officials. It was 12 against 12. We are discussing the same subject two years hence and I am sure that the House would have certainly made an advance to the extent of giving a unanimous opinion upon this subject. That is certainly strengthening the hands of the Government. Another aspect referred to was that there is not a proper alternative to be substituted for this. The long term imprisonment, which I suggested and suggested by many countries, according to the Government was not either less barbarous than the death sentence or as efficacious as the extreme penalty of law. I do not think that that is the real position. I referred to the long term imprisonment under improved conditions. By that I meant that if the real culprit is

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given a long term imprisonment under certain conditions, that is the Government exerting to reform the culprit, it will have a salutary effect. That it is not as efficacious as the death sentence is also an exploded theory. In the case of the death sentence it is no real punishment to the culprit. It takes his life. That is all. No opportunity is given to the culprit to improve and on the other hand long term imprisonment under certain conditions will really improve a man and give him back to the society. Then the alternative, even if it is acceptable is not as deterrent as the death sentence. That again is an exploded theory. The experience of America which has very largely taken to a rigorous enforcement of the death sentence shows that murder is on the increase in that State, although on the side of detection it is becoming less and less.

Then again the retention of this provision in the Statute Book loses sight of the importance and economy of human life. I do not wish to say anything more. One other objection also remains to be answered. If the death sentence is to be done away with there is the difficulty of regrading punishments to various offences. If the Government is convinced or if the non-officials are able to convince the Government that the reform is necessary then the regrading of the punishment cannot be an obstacle in the way. It is to be undertaken, the Government has to undertake legislation and of course the whole of the Penal Law may have to be revised. It has to be done. So I would appeal to the non-official side of the House to register a unanimous vote on this resolution and thus strengthen the hands of the Government and make it change the position taken up in its answer that they do not find the wisdom of doing away with this barbarous system of committing judicial murder.

Mr. K. Achyuta Menon.—I have only one or two words by way of reply. I have to correct a high mistake which has crept in the speech of the Hon'ble Member for South Ezhuvas. I do not remember to have stated that the time has not yet come for changing the provision in the Statute Book.

Mr. K. Ayyappan.—Was it a mistake in your speech?

Mr. K. Achyuta Menon.—I believe I am better Judge of my opiniom. (Laughter). What I stated was,.....

Mr. K. Ayyappan.—What is the report of the shorthand reporters?

Mr. K. Achyuta Menon:—I am not disputing the matter. I do not believe that I spoke in that strain. What I stated was that a case for a change in the provisions of the law has not been made. I am speaking for the Government. We do not

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believe that this punishment depends upon the principle of wear and tear and that the Statute Book grows less wise as years advance. The Hon'ble Member for Cheruviruthi wanted to know what are the countries that have first abolished it and reinstated it, and I promised that I will give him some information in the matter and I am ready with it to-day. I am reading a small passage from one of the Criminal Law Journals. "As to the efficacy of the punishment to deter crime, as to the wisdom of inflicting it, there seems equally small room for question. The teaching of experience justifies this conclusion. In some foreign countries and in some of the State of the Union the abolition of the penalty has been tried, but with no success, though some States still adhere to it. In the States of New York and Iowa the statutes prescribing death penalties were (by New York in 1860 and Iowa in 1872) abolished; and as good authority states by reason of the consequent increase in crime, the Legislatures, the Legislatures of both States ,(New York in 1872 and Iowa in 1878) were compelled to reinstate the law". So also France. France tried it and it had to restore the guillotine five years after that. I also pointed out that although each side tries to take credit for conclusiveness of argument, there is a well balanced difference of opinion on this matter. The march of years, since the weighty discussion last time in this Council, it is significant to note, has not been able to add one, argument more to the category of arguments of last time. It will be a work of superoration for me to add to the detailed arguments that were advanced by way of defence of the existing position in the last session of this Council. But certainly it is remarkable that although the years progressed the arguments did not progress. We are where we were. It is the fundamental principle of legislation that you do not interfere where the interference is not proved to be beneficial or just. It is not a case that legislating for the first time. You cannot forget there is great legislative wisdom behind the existing provision and before you tamper with that wisdom it must be proved that what passed for wisdom ought not now be followed or accepted.

The resolution was than put and negatived.

Mr. P. Kumaran Ezhuthassan.—A oll, Sir.

The House divided Ayes 11 and Noes 15.

	Ayes.		Noes.
1	Mr. K. Ayyappan.	1	Mr. K. Achyuta Menon.
2	,, A. Eachara Menon.	2	,, V. K. Aravindaksha Menon.
3	,, P. S. Kesavan Nambudiri.	3	,, Barton Wright.
4	,, T. K. Nair.	4	,, M. A. Chakko.
5	,, P. Kumaran Ezhuthassan	5	,, George Chakyamuri
6	,, A. I. Mani.	6	,, Joseph Pettah.

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7 Mr. T. A. Ramachandra Iyer.	7 Mr. U. Kander Menon.
8 ,, M. K. Raman.	8 Rao Sahib Mr. T. V. Kastriu Ranga Ayyar.
9 ,, P. Raman Menon.	9 Mr I. N. Menon.
10 Dr. A. R. Menon.	10 ,, P. Nilakanta Menon.
11 Dr. K. Sankara Menon.	11 Dr. D. Raghavendra Rao.
	12 Mr. K. Ramunny Menon.
	13 ,, A. Sankara Puduval.
	14 ,, T. S. Sesha Ayyar.
	15 ,, P. V. Subrahmanya Ayyar.

Mr. George Chakyamuri.—The neutrals also may be ascertained.

Nuetrals.

1 Mr. S. S. Koder.
2 ,, M. Krishna Menon.
3 ,, P. Krishna Menon.
4 ,, Paul Mampilli.
5 Mrs. Swaris.
6 Mr. K. P. Vallon.

24. Veterinary Hospital at Pazhayannur.

Mr. T. K. Nayar.—"*This Council recommends to the Government to open a Veterinary Hospital at Pazhayannur*".

ഈ ഒരുപ്രമേയത്തിനെങ്കിലും അധികം പ്രസംഗം കൂടാതെ കഴിക്കാമെന്നാണെന്റെ ബോദ്ധ്യം. പഴയന്നൂർ നിയോജകമണ്ഡലത്തിൽ അധിവസിയ്ക്കുന്നവർ അധികവും കൃഷിക്കാരാണ്. അവരുടെ സമ്പത്തു കന്നുകാലികളാണ്. ഒരു മൃഗം കൊല്ലമായിട്ട് അവയുടെ ഇടയിൽ വന്നുകൂടിയിട്ടുള്ള രോഗം ഇനിയും വിട്ടുപോയിട്ടില്ല. ഈ നഷ്ടവും സങ്കടവും സമ്പത്തുള്ളവരും ഇല്ലാത്തവരും ഒരുപോലെ സഹിയ്ക്കുന്നതായിട്ടാണിരിയ്ക്കുന്നതു്. ഇതിനെപ്പറ്റി അധികാരികളോടു സങ്കടമറിയിച്ചു. എന്തെങ്കിലും ചെയ്യാമെന്നും പറഞ്ഞു. ഒന്നുമില്ല. ഒടുവിൽ ദിവാനെകണ്ട് ഒരു മൃഗാസ്പത്രി അവിടെ തുടങ്ങേണ്ടതിനെപ്പറ്റി പറഞ്ഞപ്പോൾ, ഗവമ്മെണ്ടിന്റെ നയം ആസ്പത്രി വർദ്ധിപ്പിക്കുവാനല്ല്. ഇൻസ്പെക്ടർമാരുടെ എണ്ണം വർദ്ധിപ്പിച്ചാൽ അധികം ഗുണമുള്ളതാകകൊണ്ട് അങ്ങനെ ചെയ്യുവാനാണ് ഉദ്ദേശം എന്നു മറുപടി പറഞ്ഞു. അതിന്റെ ഫലമറിയുന്നതുവരെ ക്ഷമിയ്ക്കാമെന്നു ഞങ്ങളും വെച്ചു. പക്ഷെ ഇതുവരെയായതൊന്നും കണ്ടില്ല. ഇനി ഒരാസ്പത്രികൂടാതെ കഴികയില്ല. ഗവമ്മെണ്ട് ഈ കാര്യത്തിൽ എത്രക്കയില്ലെന്നു വെച്ചാണ് ഈപ്രമേയം കൊണ്ടുവന്നിട്ടുള്ളതു്. ഗവമ്മെണ്ടിനു രണ്ടൊഴികഴിവുകൾ തയാറുണ്ടാകുമെന്നെനിക്കറിയാം. ഒന്നുകിൽ പണം ഇല്ല, അല്ലെങ്കിൽ കാര്യം വളരെ ആവശ്യമുള്ളതാണെങ്കിലും പണച്ചിലവ് അധികമായേക്കാവുന്നതുകൊണ്ട് ചിലവിടാൻ ഭാവമില്ല. ഇതിനെപ്പറ്റി അധികം പ്രസംഗിക്കാനൊന്നുമില്ല. ഗവമ്മെണ്ടിന്റെ അഭിപ്രായം എന്താണെന്നുകൂടി അറിഞ്ഞാൽ കൊള്ളാം. ഗവ

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